

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.3194/2015
MA No.776/2016 &
CP No.47/2016

Order Reserved on: 26.02.2016

Pronounced on: 15.03.2016.

HON'BLE MS. CHAMELI MAJUMDAR, MEMBER (J)
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)

Harish Sharma, S/o late Shri P.L. Sharma,
Aged 45 years, working as Additional Internal
Auditor & Financial Advisor, CBSE (on deputation)
Shiksha Kendra, 2 Community Centre,
Preet Vihar, Delhi-92.
Parent Office –Controller of Accounts under CGA,
Department of Science and Technology,
Technology Bhawan, New Mehrauli Road,
New Delhi,
R/o D-4, Main Market, Shakar Pur,
Delhi-92.

-Applicant

(By Advocate Shri Padma Kumar S.)

-Versus-

1. Union of India through Secretary,
Secretary, Ministry of Finance,
Department of Expenditure,
North Block,
New Delhi.
2. Controller General of Accounts,
Ministry of Finance,
Department of Expenditure,
Lok Nayak Bhawan,
New Delhi.
3. Controller of Accounts,
Department of Science & Technology,
Technology Bhawan,
New Mehrauli Road,

New Delhi.

4. Secretary,
Central Board of Secondary Education,
Shiksha Kendra, 2 Community Centre,
Preet Vihar, Delhi-92.

-Respondents

(By Advocates Shri Virender Singh (R-1), Shri D.S.
Mahendru (R-2&3) & Shri Anil Srivastava (R-4)

O R D E R

Mr. K.N. Shrivastava, Member (A):

Applicant has filed this O.A. under Section 19 of the
Administrative Tribunals Act, 1985. The specific
reliefs sought in the OA read as under:

“(a) Quash and set aside the Order dated
15.06.2015 to the extent it cancels the No Objection
Certificate for absorption and also seeks repatriation
of the applicant only for conducting of the inquiry.

(b) Direct the respondents No.2, to conduct the
inquiry allowing the Applicant to continue in the
higher Grade Pay of Rs.7600/- in the borrowing
department subject to the finding of the inquiry with a
further direction to conclude the inquiry within a
period of two months.

(c) Any other relief which this Hon’ble Tribunal
may be pleased to pass under the facts and
circumstances of the case.”

2. The brief facts of this case are as under.

The applicant belongs to Civil Accounts Department
and his cadre controlling authority is Controller
General of Accounts (CGA). The said department has

its cadre posts at various levels in various Ministries/Departments of the Central Government. He was initially appointed as a Lower Division Clerk in the Department of Power. Thereafter, he has been getting his regular promotions and has been posted to various Ministries, viz., Ministry of Power, Ministry of Urban Development, Ministry of Steel and Mines, Ministry of Commerce and Industries and Ministry of Science & Technology. While working as Assistant Accounts Officer in the Ministry of Science and Technology, he was allowed to join Central Board of Secondary Education (CBSE) as Senior Accounts Officer in the Grade Pay of Rs.6600/-. It is important to mention that at the time of his deputation to CBSE, he was holding a post carrying the Grade Pay of Rs.5400/-. There was a prospect of applicant's getting permanently absorbed in the borrowing organization, i.e., CBSE to a higher post. The CBSE vide its order No. CBSE/Personnel-A/21(08-36)/ 2014/4184-87 dated 18.09.2014 (Annexure-5), requested the cadre controlling authority, i.e., CGA for its no objection certificate (NOC) for the proposed absorption. The cadre controlling authority gave its NOC in that regard vide letter No.A-35018/01/2013/MF.CGA/Gr."B"/

Vol.1/594 dated 21.10.2014 (page 130 of the paper-book). In the meanwhile, the Department of Science and Technology started disciplinary inquiry against the applicant by issuing the memorandum of charges bearing No.MST/PrAO/(A)/16-33/Vig.Supply/2014-15/ 520 dated 11/12.06.2015 (Annexure-2). In view of this development, the cadre controlling authority, i.e., CGA, withdrew its NOC vide letter No. A-35018/1/2013/ MF.CGA/ Gr."B"/ Vol.1/207 dated 15.06.2015 (Annexure-1). Aggrieved by this action of the CGA the instant OA has been filed.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicant filed his rejoinder. As the pleadings were complete, the case was taken up for final hearing. Shri Padma Kumar S., learned counsel for the applicant and Shri Virender Singh, learned counsel for respondent No.1, Shri D.S. Mahendru, learned counsel for respondents 2&3 and Shri Anil Srivastava, learned counsel for respondent No.4 argued the case.

4. Learned counsel for the applicant, besides highlighting the issue raised by the applicant in the OA and the rejoinder, submitted that respondent No.4

(CBSE) had already written to the lending department (Department of Science & Technology) regarding absorption of the applicant in the borrowing organization and while doing so had made it clear that the departmental proceedings started against the applicant will continue nevertheless. Based on this submission of respondent No.4 before this Tribunal on 03.09.2015, the Tribunal was pleased to pass an interim order, directing respondent No.4 not to relieve the applicant till the next date of hearing. It was also submitted that respondent no.4 vide its letter No.Admn.-1(A)/21(8-36)/2015/1360-61 dated 03.07.2015 (Annexure-7) to respondent No.2 had sought extension of services of the applicant with respondent No.4 for at least three months within which an alternate arrangement could be made. He drew our attention to the letter No.A-35018/1/2013/MF.CGA/Gr."B"/Vol.1/ 594 dated 21.10.2014 from respondent No.2 to respondent No.4 in which NOC for permanent absorption was issued. The learned counsel also drew our attention to letter No. CBSE/Personnel-A/21(08-36)/2015/1940 dated 07.08.2015 of respondent No.4 to respondent No.2, wherein it has been stated as under:

“I shall be grateful, if letter No.A-35018/1/2013/MF.CGA/Gr.'B'/Vol.1/207 dated 15.06.2015 can be withdrawn and allow him to remain in CBSE up to 07.08.2016 as already requested by the Board vide letter No. CBSE/Personnel-A/21(08-36)/2014/814-15 dated 21.04.2014 keeping in view acute shortage of Accounting Officers in CBSE.”

Concluding his arguments, the learned counsel submitted that the applicant is not wary of facing the disciplinary proceedings started by the lending department, i.e., Department of Science & Technology, but at the same time he would not like to lose the prospect of his absorption to a higher post in the borrowing organization, i.e., CBSE on this account and hence he prayed that the respondent No.2 may be directed to withdraw its order dated 15.06.2015 as also to grant other reliefs prayed for in the OA.

5. Per contra, Shri Anil Srivastava, learned counsel for respondent No.4 submitted that respondent No.4 has already created a separate cadre for its accounts unit and as such it does not require the services of the applicant on deputation/absorption any more and hence the applicant has been repatriated to his parent department on 28.08.2015 itself.

6. Shri D.S. Mahendru, learned counsel for respondents No.2&3 submitted that the NOC given has already been withdrawn and the applicant has been directed to report to the Department of Science & Technology and face the departmental proceedings. It was vehemently pleaded by the learned counsel for respondents No. 2&3 and 4 that the OA is devoid of merit and the reliefs prayed for therein should be denied.

7. We have considered the arguments of the learned counsel for the parties and have also perused the pleadings and documents annexed thereto. There is no dispute with regard to the facts in the case. The issue lies in a very narrow compass. Admittedly, respondent No.4 initially wanted to absorb the applicant for which they had obtained NOC from respondent No.2. Later on, in view of the fact that the Department of Science and Technology, where the applicant had worked just prior to coming on deputation to respondent No.4, have initiated a departmental proceedings against him, the cadre controlling authority withdrew the NOC issued earlier just to facilitate the conduct of the disciplinary inquiry. Now since respondent No.4 has made it

absolutely clear that they do not require the services of the applicant either on deputation or on absorption basis. Hence the applicant has no option except to go back to his parent organization.

8. In view of the above, the OA is dismissed, as it is devoid of any merit.

9. No order as to costs.

10. In view of the order passed in OA-3194/2015, MA No.776/2016 & CP No.47/2016 have become infructuous and they are dismissed accordingly.

(K.N. Shrivastava)
Member (A)

(Chameli Majumdar)
Member (J)

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